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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/665,728	09/20/2000	Lawrence W. Stanton	SCIOS.013A	8743

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EXAMINER

O HARA, EILEEN B

ART UNIT	PAPER NUMBER
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1646

16

DATE MAILED: 02/04/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application N .

09/665,728

Applicant(s)

STANTON ET AL.

Examiner

Eileen B. O'Hara

Art Unit

1646

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 27 December 2002 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____.

3. ☒ Applicant's reply has overcome the following rejection(s): See Continuation Sheet.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: 1-8 and 30-33.

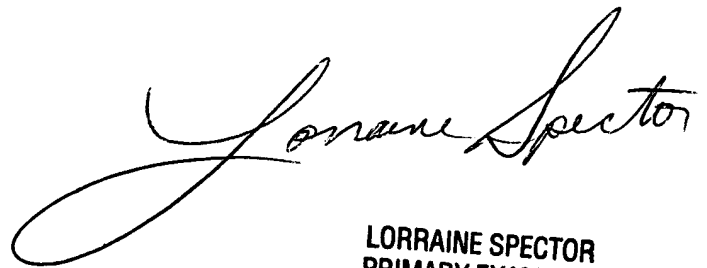
Claim(s) withdrawn from consideration: _____.

8. ☐ The proposed drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☒ Other: See Continuation Sheet

Continuation of 3. Applicant's reply has overcome the following rejection(s): rejections under 35 U.S.C. 112, first paragraph for written description.

Continuation of 5. does NOT place the application in condition for allowance because: Applicants' arguments have been fully considered but are not deemed persuasive. Although the polypeptide encoded by the claimed polynucleotide sequence may show elevated plasma levels that correspond to the up-regulation of the nucleic acid in the myocardial infarction model, it is not predictable that this would be the case for the protein. Increase in transcript levels do not necessarily correlate with increase in protein produced. Additionally, Applicants assume that the encoded protein is secreted because of the presence of a predicted signal sequence; however many proteins that have signal sequences are membrane bound proteins (for example receptors, hedgehog proteins and many cytokines as well as proteins that localize to intracellular membranes, i.e. Golgi apparatus, etc.) and would not be found in plasma. The claimed invention does not have utility in its current state. If evidence that the protein encoded by the polynucleotide of SEQ ID NO: 2 could be detected at increased levels in the myocardial infarction disease model in plasma, the utility rejection might be overcome. Therefore, for reasons of record in the previous Office Actions and the above, the rejections are maintained.

Continuation of 10. Other: On page 4 of the After Final Amendment Applicants state that they provide copies of pages 45-56 of the specification and a copy of the post card provided when the application was filed. However, these materials were not present in the submitted paperwork. It is requested that Applicants submit these materials in their next response. .



LORRAINE SPECTOR
PRIMARY EXAMINER